



the meaning of the Railway Labor Act, as amended, and that the Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

Claimant was found responsible for failure to stop short of a red board and for failure to comply with operating rules governing movement in ABS territory. He was disciplined with ten (10) days suspension.

The essential facts are that the red board in question was located about one-tenth (1/10th) mile short of where it should have been and Claimant's engine went past it a few feet for a technical violation of rules. Also, Claimant violated Rule 509 when he did not stop his train one hundred (100) feet past a signal and wait ten (10) minutes before proceeding.

The Board finds that the record here supports the conclusion that Claimant was at fault for violating the red board. The fact that it was out of place for a short distance is not determinative. Claimant saw it and could have stopped short of it if he had done a better job.

As to the Rule 509 violation, the Board finds that Claimant should not have been found at fault. The dispatcher's instructions were to stop at a signal and talk to the flagman of a work train ahead before proceeding. There was enough ambiguity in the dispatcher's instructions to conclude that the train had permission to proceed as was done.

In view of the above, the discipline shall be reduced to five (5) days suspension.

AWARD

Claim is sustained, in part, as indicated above.

ORDER

The Carrier is ordered to make this Award effective within thirty (30) days from the date shown below.

B. H. Ivan Arthur  
Employee Member

W. J. Douglas  
Carrier Member

D. Kelly  
Chairman and Neutral Member

Dated: 3-20-98